



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVENUE
WASHINGTON NAVY YARD DC 20376-2101

IN REPLY REFER TO

5720

Ser SEA 00A5/DON-NAVY-2017-004907F

June 6, 2017

Mr. David Agnew
IHS Markit
7004 Boulevard East, Apt 14L
West New York, NJ 07093

SUBJECT: YOUR FREEDOM OF INFORMATION ACT CASE DON-NAVY 2017-004907

Dear Mr. Agnew:

This is a final response to your March 21, 2017, Freedom of Information Act (FOIA) request seeking a copy of the SMPIG database.

A thorough search of this Headquarters files was conducted, specifically those files located in the Logistics, Maintenance and Modernization Directorate (SEA 04RM). Knowledgeable personnel with that office were able to locate the requested data.

I considered your request under the FOIA, 5 U.S.C. 552, as amended, and Secretary of the Navy Instruction 5720.42F. While it is noted that this type of data has been routinely released to you in the past under the FOIA, the source of the technical data has changed and is now identified as "Distribution D." As such, I am denying the release of this data under exemption (b)(3). Exemption 3 requires the withholding of information prohibited from disclosure by another statute provided that the statute "(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or (B) establishes a particular criteria for withholding or refers to particular types of matters to be withheld."

10 U.S.C. 130 and the Department of Defense (DoD) implementing directive, DoD Directive 5230.25, prohibit the disclosure of technical data with military or space application in the possession of, or under the control of, the Department of

Defense, if such data may not be exported lawfully outside the United States with an approval, authorization, or license under the Arms Export Control Act. 10 U.S.C. § 130 is an exemption 3 statute.

Since the data you have requested is now prohibited from public disclosure for the reasons stated above, I am denying your request.

I am the official responsible for this decision. You may submit a written administrative appeal of my decision. Should you decide to file an appeal, it must be received within 90 calendar days from the date of this letter and should contain a copy of your original requests, a copy of this letter, and a statement indicating why you think your appeal should be granted. Attach a copy of this letter to the appeal and mark the appeal and the envelope, "Freedom of Information Act Appeal." Mail the original to the Department of the Navy, Office of the General Counsel, Attn: FOIA APPEALS, 1000 Navy Pentagon, Room 5A532, Washington, DC 20350-1000. Please mail a copy of the appeal to:

Commander
Naval Sea Systems Command (SEA 00A5)
1333 Isaac Hull Ave SE
Washington Navy Yard, DC 20376-1021

As an alternative to filing an appeal, you may seek Alternate Dispute Resolution (ADR). You may submit your request for ADR either to DONFOIA-PA@navy.mil or you can call the Navy FOIA Service Center at 202-685-0214 or via the following address:

Chief of Naval Operations (DNS-36)
Attn: FOIA/PA Service Center
C/O - Head, SECNAV/CNO FOIA/PA Program Office
2000 Navy Pentagon
Washington, DC 20350-2000

If you have any questions concerning the processing of your request, please contact Ms. Ginger Dolan, at 202-781-3359. I am the official responsible for this decision. You may submit a written administrative appeal of my decision.

Fees for processing your request were below the threshold for requiring payment; however, fees are assessed on a case-by-case basis and you may be charged fees on future requests.

If you have any questions concerning the processing of your request, please contact Ms. Ginger Dolan, at 202-781-3359.

Sincerely,

A handwritten signature in blue ink, appearing to be 'JAVIER MARTINEZ', written over the typed name.

JAVIER MARTINEZ
Assistant Counsel